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Remarks

Entry of the above-noted amendments and favorable reconsideration of the application are respectfully requested. Claims 1-10, 15-17, 19-36, 38-47, 54, 55 and 57-58 are pending.

Applicant's arguments presented below focus on certain patentable differences between the invention as claimed and the applied references. However, it is not to be inferred that the failure to argue all differences between the claimed subject matter and the applied references constitutes acceptance of assertions made in the Office Action of alleged similarities between elements of the claimed subject matter and the applied references.

Claim Objections

Claims 1, 4, 7, 10, 17, 31, 33, 42 and 54 were objected to because of informalities. With regard to claim 1 the phrase "adapted for" was alleged to convey "optional language". Applicant has searched for the subject phrase in all of the claims and deleted it. Therefore, this objection is now overcome.

With regard to claims 7 and 10, these claims are amended to include the definition of the subject abbreviations. Therefore these objections are now overcome.

Entry of the amendments associated with the correction of the claim objections is believed to be proper even following a final Office Action. Except for such amendments, the claims are not amended.

Claim 15

Claim 15 was rejected under 35 U.S.C. 103 as being unpatentable over Valentine (U.S. Patent No. 6,356,547) in view of Garcia (U.S. Patent No. 5,566,239). This rejection is traversed.

MPEP §706.02(j) states: "To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." Emphasis added.

Claim 15, which depends on claim 1, recites that the controller is capable of changing the configuration during a communication session.

In the Office Action claim 15 was rejected based only on the teachings of Valentine at column 5, lines 1-43; column 6, lines 1-65; column 7, lines 10-44. Applicant has carefully reviewed each of the specified sections of text in Valentine. These sections teach that the DSP 66 is part of a reprogrammable architecture that can be reprogramed to provide different services to a subscriber loop. The software algorithms that control the operation of the DSP 66 is contained in memory space 68. It is indicated at column 6, line 15-20, that a change in subscriber service is implemented by a corresponding change in the memory space 68 so that a different stored algorithm is utilized. In column 7, programmable frequency shift devices 106 are discussed.

Nothing in the relied upon sections of Valentine provide a teaching of limitations required by claim 15. In accordance with claim 15, the controller recited in claim 1 is capable of changing the configuration of subscriber services during a communication session. That is, a configuration can be changed during an ongoing communication session by the subscriber. An example of this is provided in the detailed description of the subject application. Although different services can be provided by Valentine, nothing in the relied upon text of Valentine teaches or suggests that a change in configuration of subscriber services is supported during an ongoing communication section. Therefore, prima facie grounds are not provided by Valentine

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in support of the 35 U.S.C. 103 rejection of claim 15. The withdrawal of the finality of the Office Action and of the rejection of claim 15 is requested.

One of ordinary skill in the art would understand that to change the control of DSP 66 from a first software algorithm in memory 68 to another software algorithm would cause a disruption of an ongoing operation of the DSP during such a change, and that the disruption of the operation of the DSP would cause a corresponding disruption in ongoing communication service being provided by the DSP to a subscriber. That is, such a change could not be made during an ongoing subscriber communication session and still maintain the ongoing session. It is believed to be clear that the limitation of claim 15 is not taught by Valentine. Garcia is not relied upon with regard to the rejection of claim 15. Since none of the applied art teaches the limitation of claim 15, the 35 U.S.C. 103 rejection should be withdrawn as well as finality of the rejection.

In view of the above amendments and remarks, withdrawal of the finality of the rejection and of the rejection of claim 15 are respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,



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